

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-130-C - ORDER NO. 97-596
JULY 10, 1997

IN RE: Application of Omnicall, Inc. for) ORDER
a Certificate of Public Convenience) APPROVING
and Necessity to Provide Local Exchange) CERTIFICATE
Telecommunications Services throughout)
the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of OmniCall, Inc. ("OmniCall" or "the Company"). The Application requests that the Commission issue to OmniCall a Certificate of Public Convenience and Necessity authorizing OmniCall to provide local exchange telecommunications services throughout the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated April 16, 1997, the Commission's Executive Director instructed OmniCall to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the

hearing date on this matter. OmniCall complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing. Petitions to Intervene were received from BellSouth Telecommunications, Inc. ("BellSouth") and the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on July 2, 1997, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. OmniCall was represented by Robert D. Coble, Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. BellSouth did not appear at the hearing.

Prior to the hearing, OmniCall and the SCTC executed a Stipulation dated May 13, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. At the hearing, OmniCall entered the Stipulation into the record as a hearing exhibit (Hearing Exhibit No. 1) and requested approval of the Stipulation. The Stipulation provides the following:

(1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to OmniCall if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) OmniCall agrees that any Certificate granted by the Commission will authorize OmniCall to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) OmniCall agrees that it is not requesting the Commission

to find whether competition is in the public interest for rural areas;

(4) OmniCall agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until OmniCall provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. OmniCall also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) OmniCall agrees that if, after OmniCall gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then OmniCall will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) OmniCall acknowledges that any right which it may have or acquire to serve a rural telephone company service area in

South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) OmniCall and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) OmniCall agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and OmniCall and was filed with the Commission prior to the hearing in this matter. We therefore approve the stipulation.

In support of its Application, OmniCall presented Marshall Howard to testify. Mr. Howard is Vice President of OmniCall. The purpose of Mr. Howard's testimony was to (1) present evidence on the technical, managerial, and financial abilities of OmniCall to provide local exchange telecommunications services in South Carolina and (2) to describe the services OmniCall proposes to offer.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, OmniCall's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by OmniCall should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that OmniCall possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate OmniCall's technical qualifications, Mr. Howard testified that OmniCall will purchase local exchange service at a discount from BellSouth and will then resell the service under its own brand in the form of a competitive local service offering. Therefore, Omnicall would utilize the technical expertise of the underlying carrier when acquiring unbundled elements from a carrier or when reselling a carrier's services. Mr. Howard also stated that OmniCall is willing and able to provide telecommunications services properly and continuously. Concerning OmniCall's managerial qualifications, Mr. Howard testified that OmniCall's management team has extensive managerial

and technical expertise. A review of the management profiles submitted with the Application reveals that Omnicall's management personnel have experience in the telecommunications industry as well as experience in sales, marketing, and management. Regarding OmniCall's financial resources, the record reveals that OmniCall is organized under the laws of the State of South Carolina. Mr. Howard testified that OmniCall is sufficiently funded and has sufficient guarantees from its sister corporation (Teleco, Inc.) to cover operating losses until OmniCall generates sufficient cash flow to operationally stand on its own. No other party offered any evidence in opposition to Mr. Howard's testimony. Based on the undisputed evidence of the record, the Commission finds that OmniCall possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that OmniCall will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Howard testified that OmniCall seeks to provide local telecommunications services, primarily as a reseller. Mr. Howard specifically stated that OmniCall will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that OmniCall fully intends to meet the Commission's service standards. No party offered any evidence to dispute Mr. Howard's testimony. Based on the undisputed testimony from Mr. Howard, the Commission believes, and so finds, that OmniCall will provide telecommunications services which will meet the service standards

of the Commission.

(3) The Commission finds that OmniCall's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Howard's prefiled testimony reveals that OmniCall anticipates that approval of its Application will promote competition within the telecommunications industry in South Carolina. Mr. Howard further offered that competition would result in the offering of higher quality services at lower prices. No party offered any evidence that the provision of local exchange service by OmniCall would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by OmniCall will not adversely impact affordable local exchange service.

(4) The Commission finds that OmniCall will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Howard testified that OmniCall will comply with the Commission's universal service requirements. No party disputed Mr. Howard's testimony. Based on the undisputed evidence of record, the Commission finds that OmniCall will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by OmniCall "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp.

1996). Mr. Howard offered that the competition of OmniCall offering services in South Carolina will benefit customers. Further, Mr. Howard offered that certification of OmniCall to provide local exchange service would increase competition in the South Carolina telecommunications marketplace thereby ensuring a wide variety of services and prices and increased customer choice. Mr. Howard's testimony was undisputed as no party offered any evidence that approval of OmniCall's Application would adversely impact the public interest. Therefore, the Commission finds that approval of OmniCall's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by OmniCall should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of OmniCall for a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by OmniCall and the SCTC is approved by this Commission, is binding upon OmniCall and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. OmniCall shall conduct its operations in compliance with the Stipulation until further Order

of the Commission.

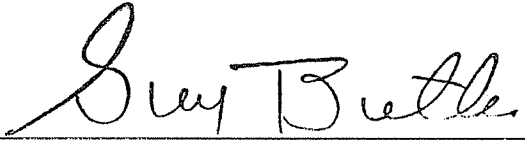
3. OmniCall shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which OmniCall agreed.

4. OmniCall shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, OmniCall shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. OmniCall shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, OmniCall shall promptly notify the Commission in writing if the representatives are replaced. OmniCall is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. OmniCall shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230